IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5469 of 1999

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NEWTON ENGINEERING & CONSTRUCTION CO. LTD.
Versus
UNION OF INDIA

Appearance:
MR MIHIR H JOSHI for Petitioner
MR MUKESH R SHAH for Respondents

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE A.R.DAVE

Date of decision: 16/08/2000

ORAL JUDGEMENT

Per Dharmadhikari, C.J.:

Rule.Mr. M.R.Shah,learned counsel appears and waives service of rule on behalf of the respondent-authorities. In the facts and circumstances of the case, the matter is taken up today for hearing.

In the pending appeal of the petitioner, the respondent authorities have passed an order under Section 35-F of the Central Excise Act, 1944 directing the petitioner to make pre-deposit of Rs. 80,000/-.

After hearing the learned counsel for the petitioner and for the department, in our opinion, it would not be proper to decide the petition on merits. The question before the court is, whether in the facts and circumstances of the case like this, the petitioner should be directed to pay the whole amount as pre-deposit for preferring an appeal. Without expressing any opinion on the merits of the case, we direct that the Commissioner (appeals) shall dispose of the appeal without insisting on pre-deposit, within a period of two months. Petition accordingly stands disposed of. Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

(D. M. Dharmadhikari, C.J.)

(A. R. Dave, J.)

parekh